



UNITED STATES MARINE CORPS
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IN REPLY REFER TO
5800
CDC
3 Sep 20

CDC POLICY MEMO 1.2B

From: Chief Defense Counsel of the Marine Corps
To: Distribution List

Subj: CHIEF DEFENSE COUNSEL'S CRITICAL INFORMATION REQUIREMENTS

Ref: (a) JAGINST 5800.7F W/CH3 (JAGMAN)
(b) CDC Policy Memo 1.6

1. Purpose. To update the Chief Defense Counsel's (CDC) Critical Information Requirements (CIR) and ensure the timely and effective sharing of information within the Defense Services Organization (DSO).

2. Discussion. CDC's CIRs are significant events the CDC must be made aware of as soon as practicable. Timely and accurate reporting of CDC CIRs following a triggering event significantly enhances the ability of the CDC to make timely decisions and initiate appropriate actions.

3. Policy: CDC's Critical Information Requirements. There are two categories: (1) Immediate Reportable Items and (2) Items Reportable through the RDC. DSO personnel must report all CIRs via e-mail. Due to their critical and often time-sensitive nature, DSO personnel must also personally notify the CDC by voice or text of any Immediate Reportable Items. DSO personnel must also annotate all CIR cases on the DSO's Case Information System (CIS) and as required by CDC reporting requirements of PM 1.3 CDC¹.

a. Immediate Reportable Items. All members of the DSO will immediately report to the CDC via voice or text the CIRs listed below. After the initial voice or text report, all members of the DSO will send a follow-up email to the CDC answering the questions detailed below. CIRs specific to a case will be noted in CIS. The DSO member will send a courtesy copy of the email to the Officer-in-Charge, Defense Counsel Assistance Program (OIC DCAP), and the cognizant RDC and SDC. Case specific CIRs will be annotated in the CIS on SP. Client suicide related CIRs must also be maintained in SP Suicidal Client tab.

(1) Death, serious injury, life-threatening health issue, or hospitalization more than 48 hours of any DSO member or any DSO client.

¹ This memorandum in no way constricts defense counsel from raising necessary and timely objections; in these circumstances, reporting requirements should be made as soon as practicable.

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(2) Death, serious injury, or life-threatening health issue to any DSO member's immediate family (parent, spouse, or child).

(3) Any suicide gesture by a DSO member or detailed client of a DSO member.

(4) Any possible or suspected loss, compromise, or spillage of classified material or classified information by any DSO member.

(5) Any report of suspected misconduct or investigative or adverse administrative action of a member of the DSO, including but not limited to arrest, pretrial confinement, preliminary/command/Inspector General investigations or inquiries, preferral of charges against, notification of involuntary administrative separation processing or nonjudicial punishment, or any incident that requires an OPREP-3/SIR notification involving DSO personnel.

(6) Any initiation of contempt proceedings under Rules for Courts-Martial (R.C.M.) 801(b) and 809.

(7) Any allegation of unethical behavior or ineffective assistance of counsel by a DSO member or other servicemember or civilian attorney representing a DSO client.

(8) Any allegation that another government attorney has/is acting unethically or has/is engaging in prosecutorial or other misconduct, prior to such claim being made in any motion, in any correspondence external to the DSO, or on the record in court or a board. This includes, but is not limited to judges, SJAs, VLCs, legal assistance attorneys.

b. Items Reportable through the RDC. All members of the DSO will immediately send an email report to their RDC via their SDC, the CDC CIRs listed below. RDCs will promptly forward the email to the CDC, and courtesy copy the OIC DCAP. Case specific CIRs will be annotated in the CIS on SP. Client suicide related CIRs must also be maintained in SP Suicidal Client tab.

(1) Any interaction with a client, including individuals who are present for limited purposes such as NJP counseling, who, in the estimation of the DSO member, appears to be at risk for suicide.

(2) Any media interest in an investigation or case concerning a DSO client.

(3) Any motion or request to disqualify or recuse the military judge, prosecutor, SJA, or defense attorney.

(4) Any writ or Government Article 62 appeal, and any responses thereto.

(5) Any possible or suspected loss, compromise, or spillage of privileged material or information protected by the Privacy Act by any DSO member.

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(6) Any court-martial or civilian charges alleging a violation of Article 118 (or an attempted 118), UCMJ, or applicable civilian statute or that has been defined as a national security case under paragraph 0126 of reference (a).

(7) Any board or court hearing where a general or flag officer, convening authority, or staff judge advocate will be called as a witness.

(8) Any allegation of misconduct² against an officer in the grade of O-4/CWO-4 or above, or an enlisted Marine in the grade of E-8 or above.

(9) Any relief of a Commanding Officer in the grade of O-5 or above.

(10) Any allegation of unlawful command influence, prior to such claim being made in any motion, correspondence external to the DSO, or on the record statement in court or a board.

(11) Prosecutors or other government actors entering DSO workspaces without prior coordination with the relevant DSO personnel.

(12) The recommendation or approval of any DSO member's award via board or commander when lower than that submitted by the relevant DSO leader.

(13) The recommendation or approval of any defense legal services specialist's performance markings when lower than what was submitted by the relevant DSO leader.

(14) The recommended denial or denial of any rights, privileges, or benefits accrued to any DSO member by virtue of their active military service, including leave requests.

4. Reporting Requirements

a. Text report. If the immediate report is made via text, the text message should include enough information to alert the CDC about the triggering event, to include: Who, What, When, and Where.

b. Email report. All email reports will include the following information:

(1) Category of CIR (immediate or through the RDC) and specific triggering event (death, injury, etc.);

(2) Name and Unit;

(3) Factual scenario: Who, What, Where, When, How, Why (without names); and

² Allegation of misconduct includes, but is not limited to, investigation or inquiry, preferral of charges, notification of administrative separation or intent to hold NJP, or receipt of administrative counseling or report of misconduct.

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(4) A brief summary of follow-on actions by the command, military judge, law enforcement, defense counsel, or any other person involved.

c. CIS. When a CDC CIR is associated with a case, that case must be identified as a CIR case in CIS. DSO members must select all applicable CIR categories in CIS.

d. RDC Reports. When a CDC CIR is associated with a case, that case will be reported and updated monthly in the RDC's monthly report.

e. SharePoint. CIRs related to client suicide, including attempts or risk, shall be maintained in the Suicidal Client tab of SharePoint.

5. Conclusion. CDC PM 1.2A is hereby cancelled. This CDC Policy Memo is effective immediately.



V. C. DANYLUK

DISTRIBUTION:

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Legal Chief of the Marine Corps

All members of the DSO

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